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AMENDED IN SENATE AUGUST 9, 2016

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CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2153

**Introduced by Assembly Member Cristina Garcia
(Coauthor: Assembly Member Santiago)**

February 17, 2016

An act to add ~~Section~~ *Sections 25215.5.5 and 124166* to, and to repeal and add Article 10.5 (commencing with Section 25215) of Chapter 6.5 of Division 20 of, the Health and Safety Code, relating to hazardous waste, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 2153, as amended, Cristina Garcia. The Lead-Acid Battery Recycling Act of 2016.

Existing law prohibits a person from disposing, or attempting to dispose, of a lead-acid battery at a solid waste facility or on or in any land, surface waters, watercourses, or marine waters, but authorizes a person to dispose of a lead-acid battery at certain locations. Existing law requires a dealer to accept, when offered at the point of transfer, a lead-acid battery from a consumer in exchange for the new lead-acid

battery purchased by that consumer from the dealer. A violation of these provisions is a misdemeanor.

This bill, the Lead-Acid Battery Recycling Act of 2016, would, as of January 1, 2017, revise these provisions to require a dealer to accept, at the point of transfer, specified types of used lead-acid batteries and would prohibit the dealer from charging any fee to accept these used lead-acid batteries. ~~The bill~~ *bill, on and after April 1, 2017*, would require a dealer to collect a refundable deposit, as specified, for each new lead-acid battery of these types from a person who purchases the battery and who does not simultaneously provide a used lead-acid battery of the same size and type, and would require the dealer to refund the deposit to the person if, within 45 days of the sale of that lead-acid battery, the person presents a used lead-acid battery of the same type and size. The bill would require a dealer to post a specified notice or include specified information on the purchaser's receipt for one of these lead-acid batteries with regard to these provisions. The bill would allow the dealer to keep any lead-acid battery refundable deposit that is not properly claimed within 45 days after the date of sale of the new lead-acid battery.

This bill, on and after April 1, 2017, would require a California battery fee in the amount of \$1 to be imposed on a person, except as specified, for each replacement lead-acid battery purchased that is of one of the specified types. The bill would authorize the dealer to retain 1 ½ % of the fee as reimbursement for any costs associated with the collection of the fee and would require the dealer to remit the remainder to the State Board of ~~Equalization~~. *Equalization (state board)*.

This bill, on and after April 1, 2017, would require a manufacturer battery fee of \$1 to be imposed on a manufacturer of lead-acid batteries for each lead-acid battery it sells at retail to a person in California, or that it sells to a dealer, wholesaler, distributor, or other person for retail sale in California, for deposit into the Lead-Acid Battery Cleanup ~~Fund~~. *The Fund. The bill would suspend the manufacturer battery fee if the balance in the Lead-Acid Battery Cleanup Fund reaches \$100,000,000 and reinstate it if that balance drops to \$30,000,000. The bill would require the Department of Toxic Substances Control (department) and the state board to establish procedures regarding notification between the department, the state board, and the Department of Finance regarding the balance of the Lead-Acid Battery Cleanup Fund and the adjustment of the manufacturer battery fee amount. The bill would require the department to provide notice to*

manufacturers before changing the manufacturer battery fee amount, as specified. The bill would allow certain wholesalers of lead-acid batteries to elect to be considered manufacturers for these purposes, as specified.

Of moneys collected pursuant to this act, the bill would require the board to retain moneys necessary for the payment of refunds and to reimburse the board for expenses in the collection of the California battery fee and the manufacturer battery fee. The bill would require that the remaining moneys be deposited into the Lead-Acid Battery Cleanup Fund, which would be created by the bill, and would continuously appropriate those moneys to the Department of Toxic Substances Control for purposes of response actions at areas of the state that have been contaminated by the production, recycling, or improper disposal of lead-acid batteries, administration of the fund, ~~and reimbursement of certain loans for lead cleanup.~~ *cleanup, and the establishment and administration of a Lead Advisory Committee.* The bill would make the reimbursement money available for further loans, as specified. The bill would require ~~an unspecified amount of moneys~~ *\$1,200,000* be loaned from the General Fund or a special fund to the board for implementing the collection of the California battery fee and the manufacturer battery fee and would require that the loan be repaid before October 1, 2017.

This bill would require, on and after July 1, 2017, a manufacturer to place a recycling symbol, as specified, and other information on all replacement lead-acid batteries sold in California.

This bill would require the department to report annually to the Governor and the Legislature on the status of the Lead-Acid Battery Cleanup Fund and on the department's progress in implementing these provisions.

This bill would authorize the board to adopt regulations to implement these lead-acid battery management provisions. Because a violation of these regulations would be a crime, this bill would impose a state-mandated local program.

This bill would require manufacturers to notify distributors, wholesalers, and dealers of the lead-acid batteries it manufactures of the bill's requirements, as specified.

Under existing law, known as the Childhood Lead Poisoning Prevention Act of 1991, the department is required to establish procedures for environmental abatement and followup designed to reduce the incidence of excessive childhood lead exposure in California.

The bill would require, by October 1, 2017, the Office of Environmental Health Hazard Assessment to convene a Lead Advisory Committee, with a prescribed membership, to review and advise regarding policies and procedures to reduce childhood lead poisoning in the state. The bill would require the committee to publish a recommended regulatory agenda that would identify sources of lead that affect children and ensure that regulatory standards are protective of the health of the children of this state, as specified. The bill would appropriate specified amounts annually from the Lead-Acid Battery Cleanup Fund to the Office of Environmental Health Hazard Assessment for purposes of establishing and administering the advisory committee.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Article 10.5 (commencing with Section 25215)
2 is added to Chapter 6.5 of Division 20 of the Health and Safety
3 Code, to read:

4
5 Article 10.5. The Lead-Acid Battery Recycling Act of 2016
6

7 25215. This article shall be known, and may be cited, as the
8 Lead-Acid Battery Recycling Act of 2016.

9 25215.1. For purposes of this article, the following definitions
10 shall apply:

11 (a) "Board" means State Board of Equalization.

12 (b) "Business" means any person, as defined in subdivision (j),
13 that is not a natural person.

14 (c) "California battery fee" means the fee imposed pursuant to
15 Section 25215.25.

16 (d) "Dealer" means every person who engages in the retail sale
17 of replacement lead-acid batteries directly to persons in California.

1 “Dealer” includes a manufacturer of a new lead-acid battery that
2 sells at retail that lead-acid battery directly to a person through
3 any means, including, but not limited to, a transaction conducted
4 through a sales outlet, catalog, or Internet Web site or any other
5 similar electronic means.

6 (e) ~~(1)~~—“Lead-acid battery” means any battery weighing over
7 five kilograms that is primarily composed of both lead and sulfuric
8 acid, whether sulfuric acid is in liquid, solid, or gel state, with a
9 capacity of six volts or more that is used for any of the following
10 purposes:

11 ~~(2)~~
12 (1) As a starting battery that is designed to deliver a high burst
13 of energy to an internal combustion engine until it starts.

14 ~~(3)~~
15 (2) As a motive power battery that is designed to provide the
16 source of power for propulsion or operation of a vehicle, including
17 a watercraft.

18 ~~(4)~~
19 (3) As a stationary storage or standby battery that is designed
20 to be used in systems where the battery acts as either electrical
21 storage for electricity generation equipment or a source of
22 emergency power, or otherwise serves as a backup in case of failure
23 or interruption in the flow of power from the primary source.

24 ~~(5)~~
25 (4) As a source of auxiliary power to support the electrical
26 systems in a vehicle, as defined in Section 670 of the Vehicle Code,
27 including a vehicle as defined in Section 36000 of the Vehicle
28 Code, or an aircraft.

29 ~~(6) To use with or contained within a medical device, as defined~~
30 ~~in the federal Food, Drug, and Cosmetic Act, 21 U.S.C. Section~~
31 ~~321(h), as that definition may be amended.~~

32 (f) “Lead-acid battery recycling facility” means any site at which
33 lead-acid batteries are or have been disassembled for the purpose
34 of making components available for reclamation to produce
35 elemental lead or lead alloys or at which lead-acid batteries or their
36 components, or both, are or have been reclaimed to produce
37 elemental lead or lead alloys.

38 (g) “Manufacturer” means either of the following:

39 (1) The person who manufactures the lead-acid battery and who
40 sells, offers for sale, or distributes the lead-acid battery in the state,

1 unless subdivision (b) of Section 25215.35 applies to the lead-acid
2 battery, in which case the wholesaler shall be deemed the
3 manufacturer, except for purposes of Section 25215.65. If an entity
4 *that is in the business of manufacturing lead-acid batteries* engages
5 a third party to manufacture lead-acid batteries on its behalf, that
6 entity shall be deemed the manufacturer of those lead-acid batteries.

7 (2) If there is no person described in paragraph (1) that is subject
8 to the jurisdiction of the state, the manufacturer is the person who
9 imports the lead-acid battery into the state for sale or distribution.

10 (h) “Manufacturer battery fee” means the fee imposed pursuant
11 to Section 25215.35.

12 (i) “Owner or operator” has the same meaning given in Section
13 9601(20) of Title 42 of the United States Code.

14 (j) “Person” means an individual, trust, firm, joint stock
15 company, business concern, corporation, including, but not limited
16 to, a government corporation, partnership, limited liability
17 company, or association. “Person” also includes any city, county,
18 city and county, district, commission, the state, or any department,
19 agency, or political subdivision of any of those, interstate body,
20 and the United States and its agencies and instrumentalities to the
21 extent permitted by law.

22 (k) “Remedial action” has the same meaning as in Section
23 25322.

24 (l) “Removal” has the same meaning as in Section 25323.

25 (m) “Replacement lead-acid battery” means a new lead-acid
26 battery that is sold at retail subsequent to the original sale or lease
27 of the equipment or vehicle in which the lead-acid battery is
28 intended to be used. “Replacement lead-acid battery” does not
29 include a spent, discarded, refurbished, reconditioned, rebuilt, or
30 reused lead-acid battery.

31 (n) “Response action” has the same meaning as in Section
32 25323.3.

33 (o) (1) A “retail sale” or a “sale at retail” has the same meaning
34 as defined in Section 6007 of the Revenue and Taxation Code.

35 (2) “Retail sale” does not include any of the following:

36 (A) The sale of a battery for which a California battery fee has
37 previously been paid.

38 (B) The sale of a replacement lead-acid battery that is
39 temporarily stored or used in California for the sole purpose of
40 preparing the replacement lead-acid battery for use thereafter solely

1 outside of the state and that is subsequently transported outside
2 the state and thereafter used solely outside of the state.

3 (C) The sale of a battery for incorporation into new equipment
4 for subsequent resale.

5 (D) The replacement of a lead-acid battery pursuant to a
6 warranty or a vehicle service contract described under Section
7 12800 of the Insurance Code.

8 (E) *The sale of any battery intended for use with or contained*
9 *within a medical device, as defined in the federal Food, Drug, and*
10 *Cosmetic Act (21 U.S.C. 321(h)) as that definition may be amended.*

11 (p) “Used lead-acid battery” means a lead-acid battery no longer
12 fully capable of providing the power for which it was designed or
13 that a person no longer wants for any other reason.

14 (q) “Wholesaler” means any person who purchases a lead-acid
15 battery from a manufacturer for the purpose of selling the lead-acid
16 battery to a dealer, high-volume customer, or to a person for
17 incorporation into new equipment for resale.

18 25215.15. (a) Except as provided in subdivision (b), no person
19 shall dispose, or attempt to dispose, of a lead-acid battery at a solid
20 waste facility or on or in any land, surface waters, watercourses,
21 or marine waters.

22 (b) A person may dispose of a lead-acid battery at both of the
23 following locations:

24 (1) A facility, including a facility located at a solid waste facility,
25 established and operated for the purpose of recycling, or providing
26 for the eventual recycling of, lead-acid batteries.

27 (2) A dealer pursuant to Section 25215.2.

28 25215.2. (a) A dealer shall accept from persons at the point
29 of transfer a used lead-acid battery of a type listed in paragraph
30 (1), (2), or (4) of subdivision (e) of Section 25215.1, but shall not
31 be required to accept from any person more than six used lead-acid
32 batteries per day. A dealer shall not charge any fee to receive a
33 used lead-acid battery.

34 (b) ~~(1) A~~ *On and after April 1, 2017, a dealer shall charge to*
35 *each person who purchases a replacement lead-acid battery of a*
36 *type listed in paragraph (1), (2), or (4) of subdivision (e) of Section*
37 *25215.1 and who does not simultaneously provide the dealer with*
38 *a used lead-acid battery of the same type and size a refundable*
39 *deposit for each such battery purchased. The dealer shall display*
40 *the amount of the deposit separately on the receipt provided to the*

1 purchaser. The dealer shall refund the deposit to that person if,
2 within 45 days of the sale of the replacement lead-acid battery, the
3 person presents to the dealer a used lead-acid battery of the same
4 type and size. A dealer may require the person to provide a receipt
5 documenting the payment of the deposit before refunding any
6 deposit. A dealer may keep any lead-acid battery deposit moneys
7 that are not properly claimed within 45 days after the date of sale
8 of the replacement lead-acid battery, not including any sales tax
9 reimbursement charged to the consumer. Sales tax reimbursement
10 charged to the consumer on the amount of the deposit shall be
11 remitted to the board.

12 ~~(2) (A) The refundable deposit required under paragraph (1)~~
13 ~~shall be a flat rate, in accordance with subparagraph (B), and shall~~
14 ~~not be a percentage of the purchase price of the lead-acid battery.~~

15 ~~(B) (i) The refundable deposit shall be no less than fifteen~~
16 ~~dollars (\$15).~~

17 ~~(ii) For a lead-acid battery that weighs 50 pounds or less, the~~
18 ~~refundable deposit shall be no more than forty dollars (\$40).~~

19 ~~(iii) For a lead-acid battery that weighs more than 50 pounds~~
20 ~~but 100 pounds or less, the refundable deposit shall be more than~~
21 ~~forty dollars (\$40) but no more than eighty dollars (\$80).~~

22 ~~(iv) For a lead-acid battery that weighs more than 100 pounds,~~
23 ~~the refundable deposit shall be more than eighty dollars (\$80) but~~
24 ~~no more than one hundred dollars (\$100).~~

25 (c) A dealer shall post a written notice that is clearly visible in
26 the public sales area of the establishment, or include on the
27 purchaser's receipt, the following language:

28
29
30 This dealer is required by law to charge a nonrefundable \$1 California battery
31 fee *and a refundable deposit* for each lead-acid ~~battery.~~ *battery purchased.*

32
33 ~~A refundable deposit will be charged for each replacement lead-acid battery~~
34 ~~purchased. A credit of the same amount as the applicable refundable deposit~~
35 ~~will be issued if a used lead-acid battery is returned at the time of purchase.~~
36 ~~*purchase or up to 45 days later along with this dealer's receipt.*~~

37 ~~If a customer does not have a lead-acid battery at the time of purchase, the~~
38 ~~customer has up to 45 days to bring in a used lead-acid battery with a receipt~~
39 ~~to claim the deposit.~~
40

1 (d) *The department shall provide notice of an alleged violation*
2 *of subdivision (c) to any person alleged to be in violation of that*
3 *subdivision no less than 60 days before the issuance of a civil*
4 *penalty pursuant to subdivision (b) of Section 25189.2. If the person*
5 *corrects the alleged violation before the issuance of the civil*
6 *penalty, the department shall not issue the civil penalty.*

7 ~~(d)~~

8 (e) Subdivision (c) does not apply to any of the following:

9 (1) A person whose ordinary course of business does not include
10 the sale of lead-acid batteries.

11 (2) A person that does not sell lead-acid batteries directly to
12 consumers, such as over-the-counter, but instead removes
13 nonfunctional or damaged batteries and installs new lead-acid
14 batteries as a part of an automotive repair dealer service.

15 (3) A business that removes lead-acid batteries and installs new
16 lead-acid batteries as a part of roadside services. "Roadside
17 services," for purposes of this paragraph, means the services
18 performed upon a motor vehicle for the purpose of transporting
19 the vehicle or to permit it to be operated under its own power, by
20 or on behalf of a motor club holding a certificate of authority
21 pursuant to Chapter 2 (commencing with Section 12160) of Part
22 5 of Division 2 of the Insurance Code.

23 ~~(e)~~

24 (f) Except as authorized by this article, a dealer shall not collect
25 a refundable deposit for a lead-acid battery from a person.

26 25215.25. (a) (1) On and after April 1, 2017, a California
27 battery fee of one dollar (\$1) shall be imposed on a person, not
28 including a ~~business~~, *business that will resell the battery*, for each
29 replacement lead-acid battery of a type listed in paragraph (1), (2),
30 or (4) of subdivision (e) of Section 25215.1 purchased from a
31 dealer.

32 (2) The dealer shall charge a person the amount of the California
33 battery fee as a charge that is separate from, and not included in,
34 any other fee, charge, or other amount paid by the person.

35 (3) The dealer shall collect the California battery fee at the time
36 of sale and may retain 1 ½ percent of the fee as reimbursement for
37 any costs associated with the collection of the fee. The remainder
38 of the California battery fee collected by the dealer shall be paid
39 to the board in a manner and form prescribed by the board and at

1 the time the return is required to be filed, as specified in Section
2 25215.47.

3 (4) All moneys collected by a dealer pursuant to this section
4 that are not properly remitted to the board pursuant to paragraph
5 (3) shall be deemed to be a debt owed to the state by the dealer.

6 (5) A person who purchases a replacement lead-acid battery in
7 this state is liable for the California battery fee until that fee has
8 been paid to the board, except that payment to a dealer registered
9 under this article is sufficient to relieve the person from further
10 liability of the fee.

11 (6) All moneys remitted to the board pursuant to this subdivision
12 shall be expended in accordance with Section 25215.5.

13 (b) (1) The California battery fee imposed pursuant to
14 subdivision (a) shall be separately stated by the dealer on the
15 invoice given to a ~~consumer~~ person at the time of sale. Any other
16 fee charged by the dealer related to the lead-acid battery purchase,
17 including any deposit charged, credited, or both, pursuant to
18 Section 25215.2, shall be identified separately from the California
19 battery fee.

20 (2) *If a person purchases more than one lead-acid battery in a*
21 *single transaction, and is therefore imposed more than one*
22 *California lead-acid battery fee in that transaction, the dealer*
23 *shall not be required to individually list on the invoice each*
24 *California lead-acid battery fee imposed, but may instead condense*
25 *the fees to a single-line item.*

26 25215.35. (a) On and after April 1, 2017, a manufacturer
27 battery fee of one dollar (\$1) shall be imposed on a manufacturer
28 of lead-acid batteries for each lead-acid battery it sells at retail to
29 a person in California or that it sells to a dealer, wholesaler,
30 distributor, or other person for retail sale in California.

31 (b) (1) (A) On and after April 1, 2017, a wholesaler of a
32 lead-acid battery who ships or arranges for the shipment of used
33 lead-acid batteries to a lead-acid battery recycling facility may
34 elect to be considered a manufacturer for purposes of subdivision
35 (a). To so elect, the wholesaler shall notify the manufacturer of
36 the lead-acid battery from which the wholesaler purchased the
37 lead-acid battery, the department, and the board of its intent to be
38 considered a manufacturer for those purposes and shall remit a
39 manufacturer battery fee for each lead-acid battery purchased from
40 the notified manufacturer. The wholesaler shall register with the

board pursuant to subdivision (b) of Section 25215.45 and provide at least 30 days' notice to the manufacturer, the department, and the board before the wholesaler is considered a manufacturer under subdivision (a). If a wholesaler under this subdivision only remits a manufacturer battery fee for a portion of the manufacturer's lead-acid battery inventory sold in the state, the manufacturer shall remain responsible for remittance of the manufacturer battery fee for the remaining lead-acid batteries sold in the state. Multiple wholesalers may remit manufacturer battery fees for their sales of batteries from a single manufacturer. Regardless of the number of wholesalers paying manufacturer battery fees for sales of a manufacturer's batteries, the manufacturer shall remain responsible for manufacturer battery fees not paid by a wholesaler.

(B) A manufacturer shall not be required to pay the manufacturer battery fee that is to be paid by a wholesaler pursuant to this subdivision if both of the following conditions are met:

(i) The manufacturer has been notified by the wholesaler and the board of the wholesaler's election to be considered a manufacturer and the wholesaler's intent to remit the manufacturer battery fee for each lead-acid battery purchased from the notified manufacturer.

(ii) The manufacturer has registered with the board pursuant to subdivision (b) of Section 25215.45, and submits informational returns to the board in a manner and form to be determined by the board.

~~(C) (i) A manufacturer otherwise exempt from subdivision (a) pursuant to this subdivision may voluntarily submit an additional manufacturer battery fee of one dollar (\$1) per lead-acid battery that is otherwise paid by a wholesaler.~~

~~(ii) A voluntary manufacturer payment does not relieve a wholesaler from its responsibility to remit a manufacturer battery fee pursuant to this subdivision.~~

~~(D) A manufacturer that submits a manufacturer battery fee pursuant to subparagraph (C) shall be prohibited from imposing or passing on the voluntarily remitted fees to a wholesaler.~~

(2) A wholesaler that provides notice pursuant to paragraph (1) shall be considered a manufacturer for purposes of subdivision (a) until 60 days after the wholesaler provides notice to the board, the department, and the manufacturer of the lead-acid battery of the wholesaler's intention to no longer be considered a manufacturer.

1 If the manufacturer of the lead-acid batteries for which the
2 wholesaler elects to no longer pay a manufacturer battery fee has
3 not registered with the board, the wholesaler shall continue to be
4 considered a manufacturer until notified by the board that the
5 manufacturer has registered with the board.

6 (3) The board shall establish appropriate procedures for
7 providing notifications pursuant to this subdivision.

8 (c) (1) Manufacturer battery fees shall be paid to the board in
9 a manner and form as prescribed by the board and at the time the
10 return is required to be filed, as specified in Section 25215.47.

11 25215.4. (a) *A manufacturer otherwise exempt from the*
12 *manufacturer battery fee pursuant to Section 25215.35 may elect*
13 *to submit an additional manufacturer battery fee of one dollar*
14 *(\$1) per lead-acid battery that is otherwise paid by a wholesaler.*
15 *A manufacturer described in this section shall be subject to Section*
16 *25215.55.*

17 (b) *An additional manufacturer battery fee that is paid by a*
18 *manufacturer under subdivision (a) shall be treated as a*
19 *manufacturer battery fee for purposes of this article and shall be*
20 *administered as a manufacturer battery fee. If a manufacturer*
21 *elects to submit an additional manufacturer battery fee under*
22 *subdivision (a), only that manufacturer may pay the fee and that*
23 *manufacturer shall not assign the payment of that fee to another*
24 *party.*

25 (c) *The election of an otherwise exempt manufacturer to pay*
26 *an additional manufacturer battery fee does not relieve a*
27 *wholesaler who makes the election described in subdivision (b) of*
28 *Section 25215.35 from his or her liability to pay a manufacturer*
29 *battery fee.*

30 (d) *A manufacturer that elects to pay an additional manufacturer*
31 *battery fee pursuant to this section shall be prohibited from*
32 *imposing or passing on the fee to a wholesaler or dealer.*

33 (e) *A manufacturer that elects to pay an additional manufacturer*
34 *battery fee shall provide notice of that election to the board no*
35 *less than 30 days before the date he or she intends to begin paying*
36 *the additional manufacturer battery fee. The manufacturer shall*
37 *register with the board pursuant to subdivision (b) of Section*
38 *25215.45 and shall submit returns to the board in a manner and*
39 *form to be determined by the board.*

1 (f) *If an otherwise exempt manufacturer that elects to pay an*
2 *additional manufacturer battery fee no longer elects to pay that*
3 *fee, that manufacturer shall provide notice to the board no less*
4 *than 30 days before the date he or she intends to stop paying that*
5 *fee.*

6 (g) *The board shall establish by regulation procedures for*
7 *providing notifications pursuant to this section.*

8 25215.45. (a) (1) Except as provided in paragraph (2), the
9 lead-acid battery fees imposed pursuant to Sections 25215.25 and
10 25215.35 shall be collected by the board in accordance with the
11 Fee Collection Procedures Law (Part 30 (commencing with Section
12 55001) of Division 2 of the Revenue and Taxation Code). For the
13 purposes of this section, the reference to “feepayer” shall include
14 a dealer, manufacturer, importer, and wholesaler, including a
15 wholesaler that makes an election pursuant to paragraph (1) of
16 subdivision (b) of Section 25215.35, but shall not include a
17 manufacturer that makes a voluntary payment pursuant to
18 ~~subparagraph (B) of paragraph (1) of subdivision (b) of Section~~
19 ~~25215.35~~ 25215.4 as to that voluntary payment.

20 (2) Notwithstanding the petition for redetermination and claim
21 for refund provisions of the Fee Collection Procedures Law (Article
22 3 (commencing with Section 55081) of Chapter 3 of, and Article
23 1 (commencing with Section 55221) of Chapter 5 of, Part 30 of
24 Division 2 of the Revenue and Taxation Code), the board shall not
25 do either of the following:

26 (A) Accept or consider any petition for redetermination of fees
27 determined under this article if the petition is founded upon the
28 grounds that a battery is or is not a lead-acid battery, as defined in
29 Section 25215.1. The board shall forward to the department any
30 petition for redetermination that is based on those grounds.

31 (B) Accept or consider a claim for refund of fees paid pursuant
32 to this article, if the claim for refund is founded upon the grounds
33 that a battery is or is not a lead-acid battery, as defined in Section
34 25215.1. The board shall forward to the department any claim for
35 refund that is based on these grounds.

36 (b) The following persons shall register with the board:

37 (1) A dealer of lead-acid batteries in the state.

38 (2) A manufacturer of lead-acid batteries in the state, including
39 a manufacturer that voluntarily pays a manufacturer battery fee,
40 as provided in Section ~~25215.35~~ 25215.4.

1 (3) An importer of lead-acid batteries into the state.

2 (4) A wholesaler of lead-acid batteries in the state, including a
3 wholesaler that elects to be considered a manufacturer, as provided
4 in Section 25215.35.

5 25215.47. (a) The return required to be filed pursuant to
6 Section 55040 of the Revenue and Taxation Code shall be prepared
7 and filed by the person required to register with the board, in the
8 form prescribed by the board, and shall contain the information
9 the board deems necessary or appropriate for the proper
10 administration of this article and the Fee Collection Procedures
11 Law. Except as provided in subdivision (b), the return shall be
12 filed on or before the last day of the calendar month following the
13 calendar quarter to which the return relates, together with a
14 remittance payable to the board for the fee amount due for that
15 period. Returns shall be *filed with the board using electronic media*
16 *and* authenticated in a form, or pursuant to methods, as may be
17 prescribed by the board, ~~including, but not limited to, electronic~~
18 ~~media;~~ *board.*

19 (b) The board may require the payment of the fee and the filing
20 of the returns for other than quarterly periods.

21 25215.5. (a) Lead-acid battery fees collected pursuant to this
22 article shall be managed as follows:

23 (1) The board shall retain moneys necessary for the payment of
24 refunds and reimbursement of the board for expenses in the
25 collection of the fees.

26 (2) The remaining moneys shall be deposited into the Lead-Acid
27 Battery Cleanup Fund, which is hereby created in the State
28 Treasury, and are hereby be continuously appropriated, without
29 regard to fiscal year, to the ~~department~~ *department, except as*
30 *provided in Section 124166*, for purposes of the lead-acid battery
31 activities specified in subdivision (b).

32 (b) Moneys in the Lead-Acid Battery Cleanup Fund shall be
33 expended for the following activities:

34 (1) Investigation, site evaluation, cleanup, abatement, remedy,
35 removal, monitoring, or other response actions at any area of the
36 state that has been contaminated by the production, recycling, or
37 improper disposal of lead-acid batteries.

38 (2) Administration of the Lead-Acid Battery Cleanup Fund.

1 (3) Repayment of a loan described in Section 25215.6 that was
2 made before the effective date of the act which added this section,
3 or any other loan made for purposes set forth in paragraph (1).

4 (4) *Establishment and administration of the Lead Advisory*
5 *Committee pursuant to Section 124166.*

6 (c) The department shall report annually to the Governor and
7 to the Legislature on the status of the Lead-Acid Battery Cleanup
8 Fund and on the department's progress to implement this article,
9 including, but not limited to, the sites at which actions were
10 performed using moneys from the fund, the status of cleanup at
11 those sites, including total anticipated costs of cleanup at those
12 sites, the balance of the fund, the amount of fees remitted to the
13 fund, the amount spent by the fund and the purposes for which
14 those amounts were spent, the amounts reimbursed to the board
15 pursuant to paragraph (1) of subdivision (a), and any other
16 information requested by the Governor or the Legislature.

17 25215.55. (a) *The maximum balance in the Lead-Acid Battery*
18 *Cleanup Fund shall be one hundred million dollars (\$100,000,000).*

19 (b) *The minimum balance in the Lead-Acid Battery Cleanup*
20 *Fund shall be thirty million dollars (\$30,000,000).*

21 (c) *If the balance in the Lead-Acid Battery Cleanup Fund*
22 *reaches the maximum limit set forth under subdivision (a), the*
23 *manufacturer battery fee shall, beginning on the first day of the*
24 *following calendar quarter, be reduced to zero dollars (\$0.00) for*
25 *the remainder of the calendar year.*

26 (d) *If, as of October 1 of any calendar year, the balance in the*
27 *Lead-Acid Battery Cleanup Fund is equal to or less than the*
28 *minimum limit set forth under subdivision (b), the manufacturer*
29 *battery fee shall revert back to the fee set forth in Section 25215.35*
30 *on January 1 of the following calendar year.*

31 (e) (1) *The department and the board shall establish by*
32 *regulation procedures to provide notice between the department,*
33 *the board, and the Department of Finance regarding the Lead-Acid*
34 *Battery Cleanup Fund balance and the adjustment of the*
35 *manufacturer battery fee amount. The department shall determine*
36 *whether an adjustment of the manufacturer battery fee is necessary*
37 *and shall provide written notice to registered lead-acid battery*
38 *manufacturers no less than 60 days before the effective date of*
39 *change in the manufacturer battery fee amount pursuant to*
40 *subdivision (c) or (d).*

1 (2) *If the manufacturer battery fee is reverted pursuant*
2 *subdivision (d) and the department does not provide the notice*
3 *required under paragraph (1) to a manufacturer, that manufacturer*
4 *shall not be in violation of this article if the manufacturer fails to*
5 *remit the manufacturer battery fee.*

6 25215.6. If the state loans money from the General Fund to
7 the Toxic Substances Control Account for the cleanup of lead
8 contamination in the state, the following shall apply:

9 (a) Money from the Lead-Acid Battery Cleanup Fund may be
10 used towards repaying the loan.

11 (b) Any moneys designated as repayment of the loan shall be
12 deposited to that loan, but shall be available to be loaned to the
13 Toxic Substances Control Account for the purposes of cleaning
14 up areas of the state that have been contaminated with lead by the
15 production, handling, storage, reclamation, or improper disposal
16 of lead-acid batteries.

17 25215.65. On and after July 1, 2017, a manufacturer shall place
18 a recycling symbol consistent with the requirements of Section
19 103(b)(1) of the Federal Mercury Containing and Rechargeable
20 Battery Management Act, Pub. L. No. 104-142 (1996) (42 U.S.C.
21 14301(b)(1)) and either “Pb” or the words “lead,” “return,” and
22 “recycle” on all replacement lead-acid batteries sold in California.

23 25215.72. ~~_____ dollars (\$_____)~~ *One million two hundred*
24 *thousand dollars (\$1,200,000)* shall be loaned from the General
25 Fund or a special fund to the board for implementing the collection
26 of the California battery fee and the manufacturer battery fee and
27 shall be repaid from the proceeds of the collection of fees pursuant
28 to this article no later than October 1, 2017.

29 25215.74. (a) The board may prescribe, adopt, and enforce
30 regulations relating to the administration and enforcement of this
31 article, including, but not limited to, registration, collections,
32 reporting, notices for manufacturers, notices for wholesalers
33 regarding elections pursuant to paragraph (1) of subdivision (b)
34 of Section 25215.35, refunds, and appeals.

35 (b) The board may prescribe, adopt, and enforce any emergency
36 regulations as necessary to implement this article. Any emergency
37 regulation prescribed, adopted, or enforced pursuant to this article
38 shall be adopted in accordance with Chapter 3.5 (commencing
39 with Section 11340) of Part 1 of Division 3 of Title 2 of the
40 Government Code, and, for purposes of ~~this~~ *that* chapter, including

1 Section 11349.6 of the Government Code, the adoption of the
2 regulation is an emergency and shall be considered by the Office
3 of Administrative Law as necessary for the immediate preservation
4 of the public peace, health and safety, and general welfare.
5 Emergency regulations adopted pursuant to this subdivision shall
6 remain in effect until regulations have been adopted pursuant to
7 subdivision (a).

8 25215.75. This article shall become operative on January 1,
9 2017.

10 SEC. 2. Section 25215.5.5 is added to Article 10.5
11 (commencing with Section 25215) of Chapter 6.5 of Division 20
12 of the Health and Safety Code, as added by Chapter 209 of the
13 Statutes of 1988, to read:

14 25215.5.5. This article shall remain in effect only until January
15 1, 2017, and as of that date is repealed, unless a later enacted
16 statute, that is enacted before January 1, 2017, deletes or extends
17 that date.

18 SEC. 3. Section 124166 is added to the Health and Safety Code,
19 to read:

20 124166. (a) On or before October 1, 2017, the Office of
21 Environmental Health Hazard Assessment shall convene a Lead
22 Advisory Committee to review and advise regarding policies and
23 procedures to reduce childhood lead poisoning in the state. Until
24 October 1, 2019, the committee shall meet quarterly and, by that
25 date, shall publish a recommended regulatory agenda for the state
26 that would identify sources of lead that affect children and ensure
27 that regulatory standards are protective of the health of the
28 children of this state. After October 1, 2019, the committee shall
29 meet twice a year.

30 (b) Membership of the committee shall be as follows:

31 (1) One member shall be a lead exposure assessment expert.

32 (2) One member shall be a biostatistician or epidemiology expert.

33 (3) One member shall be a pediatrician.

34 (4) One member shall be an occupational health expert.

35 (5) One member shall be a lead remediation expert.

36 (6) Two members shall be representatives from environmental
37 justice organizations that work on lead contamination.

38 (7) Two members shall be local government representatives
39 from lead poisoning prevention programs.

1 (8) *One member shall be a representative from the program*
2 *established pursuant to this article.*

3 (9) *One member shall be a representative of industries that use*
4 *lead in producing their products.*

5 (10) *One member shall be a representative of the lead recycling*
6 *industry.*

7 (11) *One member shall be a representative of the civil aviation*
8 *industry.*

9 (12) *One member shall be a representative of industries not*
10 *otherwise represented on the committee that are emitters of*
11 *significant quantities of lead into the air of the state.*

12 (c) *In its recommended regulatory agenda, the committee shall*
13 *do all of the following:*

14 (1) *Evaluate of each of the following:*

15 (A) *The program established pursuant to this article.*

16 (B) *Each county's childhood lead testing programs.*

17 (C) *The drinking water program described in Section 116271.*

18 (D) *Each county's healthy homes program.*

19 (2) *Address remedial action strategies that should be considered*
20 *by the Department of Toxic Substances Control when approving*
21 *remedial action plans.*

22 (3) *Advise state and local entities on how to better use*
23 *biomonitoring data that the state receives to identify opportunities*
24 *to prevent lead poisoning.*

25 (4) *Review existing regulatory provisions for the protection and*
26 *health of children in California and recommend any appropriate*
27 *changes to any regulations that have not been revised on or after*
28 *January 1, 2011.*

29 (5) *Provide advice on how to align the state's lead regulatory*
30 *framework with the Center for Disease Control and Prevention's*
31 *most recent findings on the toxicity of lead to children.*

32 (6) *Identify key policies, regulations, and protocols for state*
33 *agencies to follow to better protect California's children from lead*
34 *exposure.*

35 (d) *Each member of the committee shall receive reasonable and*
36 *necessary traveling expenses and meal allowances as approved*
37 *by the Office of Environmental Health Hazard Assessment for each*
38 *day spent in actual attendance at, or in traveling to and from,*
39 *meetings of the committee.*

1 (e) Commencing July 1, 2017, and until July 1, 2019, for each
2 fiscal year, two hundred fifty thousand dollars (\$250,000) is hereby
3 annually appropriated from the Lead-Acid Battery Cleanup Fund,
4 established pursuant to Section 25215.5, to the Office of
5 Environmental Health Hazard Assessment for purposes of
6 establishing and administering the Lead Advisory Committee. On
7 and after July 1, 2019, one hundred thousand dollars (\$100,000)
8 is hereby annually appropriated for each fiscal year from the
9 Lead-Acid Battery Cleanup Fund for these purposes.

10 ~~SEC. 3.~~

11 SEC. 4. Each manufacturer of lead-acid batteries sold in this
12 state shall notify the distributors, wholesalers, and dealers of the
13 lead-acid batteries it manufactures of the requirements set forth in
14 Article 10.5 (commencing with Section 25215) of Chapter 6.5 of
15 Division 20 of the Health and Safety Code, as it will read on and
16 after January 1, 2017.

17 ~~SEC. 4.~~

18 SEC. 5. No reimbursement is required by this act pursuant to
19 Section 6 of Article XIII B of the California Constitution because
20 the only costs that may be incurred by a local agency or school
21 district will be incurred because this act creates a new crime or
22 infraction, eliminates a crime or infraction, or changes the penalty
23 for a crime or infraction, within the meaning of Section 17556 of
24 the Government Code, or changes the definition of a crime within
25 the meaning of Section 6 of Article XIII B of the California
26 Constitution.

27 ~~SEC. 5.~~

28 SEC. 6. This act is an urgency statute necessary for the
29 immediate preservation of the public peace, health, or safety within
30 the meaning of Article IV of the Constitution and shall go into
31 immediate effect. The facts constituting the necessity are:

32 In order to increase the cleanup of toxic materials and to prevent
33 additional toxic pollution at the earliest possible time, it is
34 necessary that this act take effect immediately.